

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2535

IN THE MATTER OF:

Served March 1, 1984

Application of FREDERICK LIMOUSINE,)
INC., for a Certificate of Public)
Convenience and Necessity to)
Conduct Special Operations --)
Airports and Union Station)

Case No. AP-83-50

By application filed September 6, 1983, Frederick Limousine, Inc. ("Applicant" or "Frederick"), seeks a certificate of public convenience and necessity to transport passengers and their baggage, over irregular routes, in special operations, between Washington National Airport, Dulles International Airport and Union Station, on the one hand, and, on the other, points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less.

Airport Limo, Inc. ("Airport Limo"), and the Federal Aviation Administration ("FAA") filed protests to the application. Both Airport Limo and FAA appeared at the public hearing and presented evidence. 1/ After the record was closed, Airport Limo withdrew its protest. FAA's evidence is summarized after the synopses of testimony from public witnesses.

Annette Reynolds, president and general manager of Frederick testified that her company's goal is to provide personal airport and railroad transfers by operating door-to-door, seven days a week, twenty-four hours a day. This service would be provided on a call-and-demand basis throughout Montgomery and Prince George's Counties and the District of Columbia with service guaranteed when reservations are made four hours in advance. Applicant has been providing similar service between points in Frederick County, on the one hand, and, on the other, Baltimore-Washington, National and Dulles Airports for about two years. Frederick has held temporary authority from this Commission since October 1983 to provide service between most points in Montgomery County, on the one hand, and, on the other, Union Station and National and Dulles Airports.

1/ In addition to presenting evidence the FAA filed a Motion to Defer Decision on Application and Hold the Record Open for Additional Evidence. That motion was withdrawn on February 9, 1984.

Applicant now provides service using 14 part-time drivers to operate two vans, each with a manufacturer's designed seating capacity of 12 passengers including the driver, and six sedans, one of which is a "stretch limo." All vehicles are radio-equipped and air-conditioned. Maintenance is performed by a mechanic who works 15-25 hours per week and who inspects the vehicles and performs routine preventive maintenance and repairs as needed. In addition, the vehicles are inspected annually by the Maryland Public Service Commission and meet U.S. Department of Transportation safety regulations. Liability insurance of \$2.5 million is carried. Ms. Reynolds testified that she has tentative plans to buy two 15-passenger vans if Frederick's application is granted.

To indicate the effect that granting the application would have on Frederick's over-all operations, Ms. Reynolds introduced two traffic studies based on the daily dispatch sheets for two weeks -- one prior to the Commission's grant of temporary authority (September 11, 1983 through September 17, 1983) and one subsequent to the Commission's grant of temporary authority (October 9, 1983 to October 15, 1983). Prior to the issuance of temporary authority, applicant's September traffic study indicated that 32 percent of all trips involved more than one passenger and 28 percent of all trips carried passengers in both directions. Subsequent to the issuance of temporary authority, applicant's October traffic study indicated that 42 percent of all trips involved more than one passenger and 36 percent of all trips carried passengers in both directions. The result for Frederick was increased profit.

Ms. Reynolds also testified that Frederick is a company working hard to become financially sound. Although it has a current ratio of one to four, the company has been able to meet its obligations and retain an open line of credit at a local bank. The company recognized a loss for the fiscal year ending August 31, 1983, due to an expansion of its fleet by 60 percent. However, for the month of August 1983 Frederick realized a profit. September 1983 resulted in an increased profit over the preceeding month. Following the grant of temporary authority, Frederick's profits have further increased. Ms. Reynolds projects that gross sales will increase 100 percent, or from 25 passengers to 50 passengers per day, if this application is granted. Due to economies of scale and increased backhauls resulting in a lower cost per passenger mile, it is her opinion that a grant of the authority requested will increase Frederick's overall profit by approximately 60 percent. For its first 12 months of operations in the Metropolitan District, Frederick projects sales of approximately \$219,000, operating expenses of approximately \$200,000 and net income after interest expense and income taxes of \$12,636.

On cross examination, Frederick's ability to handle the increased transportation obligations that would accompany a certificate of public convenience and necessity for operations throughout the Metropolitan District was questioned. Ms. Reynolds conceded that she

had not intended to seek authority to travel to the airports from Virginia, 2/ and that "a lot of our projection is really a learning curve." She further testified that serving Prince George's County would require the use of separate vehicles, unlike her current Frederick to National and Dulles trips which traverse Montgomery County.

Ten public witnesses testified in support of the application. 3/ We proceed now to a summary of this testimony.

Anna Lee Weihrer is chief of radiology, clinical engineering and clinical laboratory automation for the U.S. Army and serves as a consultant to U.S. Navy and Air Force hospitals. Her position requires that she travel frequently. Because Ms. Weihrer lives in Frederick County, she is familiar with applicant's services outside the Metropolitan District and uses those services an average of four times a month. If Frederick is granted a WMATC certificate, the witness would use applicant's service from her office in the District of Columbia as well as from Department of Defense offices in Bethesda to the airports. In addition, Ms. Weihrer testified that all persons from her District of Columbia office, which has six to eight people on the road at any given time, would also be likely to use Frederick. The witness testified that she has used scheduled services operating in the vicinity of Walter Reed Hospital. Her preference, however, is for a service like Frederick, due to difficulty in getting transportation to the points where scheduled service originates.

As to the quality of applicant's service, Ms. Weihrer testified that its personal nature was particularly appealing to her in that it solves certain security problems involved in late departures and arrivals and is responsive to the frequent schedule changes that her job necessitates.

William M. Knauf, an employee of the Department of Energy, has offices in Montgomery County and the District of Columbia. As a resident of Frederick County, he has used applicant's services exclusively for about two years when traveling to the Washington airports from his home. If the application were granted, the witness testified that he would use applicant's service even more frequently

2/ For this reason, we shall interpret Frederick's application to exclude any transportation originating from or terminating at points in Virginia, other than the airports.

3/ One other person appeared to present a position statement from Congresswoman Beverly Byron regarding the propriety of FAA's Motion to Defer Decision. As noted above, that motion has since been withdrawn.

than in the past because he would be able to use it from his office as well as from home. In addition, he testified that Frederick's service would be used by his staff of 30 persons who are constantly on the road.

Mr. Knauf finds applicant's service superior to taxicabs due to the considerably lower fares and the personal quality of the service. Likewise, the witness found regularly-scheduled van and bus service inadequate to his particular transportation requirements due to cost and logistical problems involved in getting to the pick-up point for such service and the inconvenience of arranging his schedule around such limited availability as a two-hour scheduling headway.

Wilma Sharer is field operations supervisor for Tektronix, Incorporated, which is located in Gaithersburg and employs 185 persons. Approximately 25 percent of Tektronix employees travel by air on a fairly regular basis, and Tektronix uses Frederick Limousine to serve its employees who live in Frederick County. Tektronix used Beltway Limousine Service, Inc., for transportation from Montgomery County to the airports two to three hundred times a year, but Beltway no longer offers airport service. If the application is granted, the witness anticipates using Frederick's service to transport employees from Tektronix's Montgomery County offices to the airports.

David E. Bradshaw is supervisor of transportation services at Bechtel Power Corporation, an engineering construction company located in Gaithersburg. Bechtel has 2,800 employees, and Mr. Bradshaw's staff is responsible for arranging their business-related travel reservations. For 1983, 6,000 such trips were anticipated. Bechtel has used Frederick's services authorized under its temporary authority as well as its operations out of Frederick County for transportation to and from airports and train stations. Bechtel had used rented cars driven by Bechtel employees for transportation between Montgomery County and the airports. Mr. Bradshaw has found applicant's service to be more personalized, more cost effective, and as flexible as the rental car alternative. According to Mr. Bradshaw, a public need exists in Montgomery County for Frederick's proposed services.

Blanche Keller, program analyst in the Bureau of Health Care Delivery and Assistance of the Public Health Service, Rockville, Md., testified she travels on business 10 to 12 times per year. Although the witness, who lives in Gaithersburg, has never used applicant's services, she has experience with other carriers in Montgomery County. In addition, she has made arrangements to travel with applicant at a specified date in the future. After comparing available services, Ms. Keller found Frederick's Montgomery County service to be the most convenient, least time-consuming, and most affordable mode of public transportation to National Airport.

Kenneth R. Crowley, executive director of the Gaithersburg Chamber of Commerce, testified that there is a lack of public transportation between that city and the airports, and applicant's service would meet a public need.

Thomas Frank Compton is director of contracts and finance at Program Resources, Inc. (PRI), the organization which manages the Frederick Cancer Research Facility. His staff arranges air and ground transportation for employees of, and visitors to, the facility in excess of 20 trips per month. Applicant's Frederick County service has been PRI's principal means of ground transportation to the airports for two years. Mr. Compton has used Frederick's service for personal travel and found it to be exceptional. From a business standpoint, he testified that Frederick's service alleviates scheduling problems, decreases waiting and enhances the convenience of persons for whom service is arranged. Mr. Compton is supporting Frederick's application because 40 percent of the employees for whom his staff arranges transportation live in Montgomery County. These persons would be likely to use the proposed service for travel directly from the airports to their homes when travelling on business. According to Mr. Compton such a service would be used no more than ten times per month.

Albert E. Herner lives and works in Rockville. If Frederick's application is granted, he would use the service to travel to the airports from his home and his place of business rather than his current method of driving himself. He testified that Frederick's service meets a public need in Montgomery County.

Shannon W. Wilson is international program coordinator with the U.S. Department of Agriculture Plant Protection and Quarantine Programs located in Hyattsville, Maryland. Because Mr. Wilson lives in Frederick County, he is familiar with applicant's service originating from that area and has been using it for two years to travel to and from the Washington airports. He testified that he would use applicant's proposed service to travel from his workplace in Prince George's County. On cross-examination, he testified that USDA operates a shuttle to the District of Columbia from which he is able to use Metro to get to National Airport.

Mark A. Veeder is guest services supervisor at the Gaithersburg Marriott Hotel. His duties include the scheduling of ground transportation including airport pickups and returns for guests. Mr. Veeder testified that he gets 10 to 15 calls per day regarding limousine service for which he makes either reservations or referrals to Frederick under its temporary authority. He has found Frederick's service to be flexible and prompt. There is no comparable service from Gaithersburg to the airports inasmuch as scheduled limousine service is non-existent and taxicab fares for one person traveling to the airport are substantially higher than applicant's charge. Mr. Veeder further

testified that there is a need for ground transportation to and from Union Station, although that service was not used during the temporary authority period because he was unaware that Frederick had been authorized to provide it. Guests at the hotel would require transportation to Union Station about 8 to 10 times per month.

Richard A. Griesbach, manager of commercial operations for Dulles and National Airports, testified on behalf of the FAA. Mr. Griesbach's responsibilities include planning and maintaining ground transportation services at the airports. Mr. Griesbach characterized current airport ground transportation as "bare bones," the "... minimal level of service that we could tolerate at the airports." In working to improve the overall quality and quantity of available service, FAA has designed a comprehensive request for proposals to serve as a "master plan" for airport ground transportation. Features of that plan include a market study conducted by Ground Transportation Systems Center (GTSC), advertising and promotional campaigns, increased maintenance and ticketing facilities and a fleet of 14 new buses (valued at \$2.5 million) which will be made available to FAA's primary ground transportation contractor.

The study conducted by GTSC identifies Montgomery County as potentially one of the most lucrative markets for public transportation to and from the airports. Perhaps 700 to 1,000 persons a day from Montgomery County would use a high quality, responsive ground transportation service. Door-to-door service is deemed most desirable in less densely populated suburban areas. FAA is concerned that a grant of authority to Frederick to provide direct door-to-door service to and from Montgomery County may adversely affect its contract process. On the other hand, Mr. Griesbach stated, Frederick's service could well become a part of a coordinated airport ground transportation system. If so, Frederick would be required to enter into a contract with the FAA.

FAA perceives both service and load factors to be extremely low. Improving the quality and quantity of service should improve load factors and revenue. Accordingly, FAA is putting up a certain amount of "seed money" to enable its new contractor to conduct an upgraded service. The new five-year contract is to take effect on May 1, 1984.

The exact scope of service to be offered by the new contractor was undetermined at the time of the hearing. Subsequently, FAA submitted a copy of its contract with Airport Baggage Carriers, Inc. of Maryland trading as The Airport Connection.

As a U.S. government contract, we can and do take official notice of that document. Without unduly elaborating on the details of the contract, we note that it calls for an expanded scope of scheduled ground transportation services but does not provide for door-to-door service of the type performed by Frederick. The FAA's contractor will

commence regularly scheduled service to the airports from the U.S. Highway 50 corridor in Prince George's County as part of the new contract. This is one of the areas where FAA hopes to make significant ground transportation improvements and FAA is most concerned that redundant airport service would be detrimental to the basic scheduled service there.

FAA contends that its primary ground transportation operator will only be able to serve the less profitable routes and provide a full range of scheduled services over many hours of the day if the contractor is not also beset with competition for revenue from the high demand, profitable routes. FAA testified that it is concerned that Frederick's operation, although presently small in scope, will divert needed revenue from the primary ground transportation contractor and affect the FAA's efforts to improve ground transportation for the airports. FAA is also concerned that the curbside congestion at National and Dulles during the peak hours will be aggravated by Frederick's door-to-door service in low-occupancy vehicles.

Title II, Article XII, Section 4(b) of the Compact provides that

. . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provision of this act and to rules, regulations and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise such application shall be denied.

In considering whether applicant has met the standards governing the award of a certificate of public convenience and necessity under the Compact, the Commission looks first to the issue of the carrier's ability and willingness to fulfill the obligations imposed on it as a certificated common carrier under the Compact. Should this threshold determination be made in the applicant's favor, then the proposed service is considered in light of the public need for that service. In Frederick's case, the record leaves no doubt as to applicant's willingness to comply with the requirements established by the Compact and the Commission. Frederick applied for and was granted temporary authority prior to commencing operations in Montgomery County. Likewise the record is replete with praise for the manner in which applicant performed that service. We do not doubt that, were Frederick's application granted as filed, it would perform the service authorized to the best of its ability. We would be remiss, however, were we not to examine the extent to which applicant is able to perform.

Applicant is a young company which has not yet achieved full financial stability. It provides its present service using only eight vehicles and employing no full-time drivers. If this application is granted, applicant may choose not to expand or find that it will not be financially able to expand.

The traffic study sponsored by Ms. Reynolds indicates that authority to conduct operations in Montgomery County would improve Frederick's financial condition. However, the same conclusion cannot be extrapolated to Prince George's County inasmuch as the evidence indicates that Frederick's door-to-door service would require the use of separate vehicles and would be enhanced by a second terminal located in or close to Prince George's County. Such use would negate the very premise on which applicant's increased profitability due to service in Montgomery County is based. Specifically, the necessity to use separate vehicles virtually eliminates any economies of scale, increased backhauls or lower costs per passenger mile. Given that applicant operates out of Frederick County, its costs to provide service throughout Prince George's County without a second terminal are likely to be inordinately high, undercutting the efficiency and viability of applicant's overall operation. Authorization to serve Prince George's County may well jeopardize Frederick's ability to serve customers in Montgomery County and the District of Columbia.

Also, with regard to Prince George's County, FAA is particularly concerned that the airports' fledgling scheduled service in Prince George's county and points beyond not be jeopardized by loss of revenue to applicant's service. FAA has serious doubt about applicant's ability to completely serve all of the reasonably foreseeable demand for door-to-door service in Montgomery County, let alone be responsive to demands in Prince George's County. Frederick, at this time, has insufficient vehicles, maintenance facilities, and experience to completely serve the entire territory embraced by this application.

By denying authority to serve Prince George's County at this time, the Commission does not mean to imply that residents and businesses in Prince George's County do not need service to and from the airports. Although only one witness, who works in Hyattsville, actually testified about specific service needs, the FAA's testimony, the GTSC study and the contract between FAA and Airport Baggage Carriers, Inc., also support the conclusion that improved public transportation between Prince George's County and the airports is warranted.

Given the facts of this case, however, particularly the geographic size of Prince George's County, its remoteness from Frederick's base of operations, and the relatively small fleet operated by Frederick, we must find that extension of service by applicant to Prince George's County would, at this time, be detrimental both to applicant and the riding public. With this order we will extend

Frederick's authority to include the District of Columbia, which will, itself, pose a significant challenge for a company of this size. We must conclude that a service obligation which includes Prince George's County would, at this time, overextend Frederick's capabilities and diminish its prospects for success in the service areas we are authorizing.

It may well be, however, that Frederick (perhaps working in conjunction with FAA and/or Airport Baggage Carriers, Inc.) can resolve these concerns before the record in this case grows stale. Accordingly, we shall provide for a reasonable period of time in which Frederick may, if it so desires, supplement the record on this issue. We will retain jurisdiction to reopen this proceeding and grant additional authority if such action proves warranted.

With regard to service between points in Montgomery County and the District of Columbia on the one hand, and, on the other, the airports and train station, we find that applicant has met the threshold requirement of fitness.

We turn now to a consideration of the public need for Frederick's proposed service in those areas. A review of the evidence indicates that applicant's service is strongly supported as it applies to Montgomery County. No comparable service exists in that area and scheduled service is minimal. Under Frederick's grant of temporary authority to serve Montgomery County a significant amount of business materialized with no formal advertising by applicant. Testimony was elicited from persons who either had used or definitely planned to use Frederick's proposed services. The public witnesses testifying in support of Frederick's application represented personal users as well as corporate clients. These persons testified that Frederick offered a personalized, reliable, flexible and cost-effective service which met their needs in a manner which is not accommodated by existing operators.

Several of the same witnesses testified that they personally or the corporation which they represented would use applicant's service from points within the District of Columbia. The evidence in support of Frederick's D.C. service is not as strong as it is for Montgomery County, possibly because of the District's other transportation resources. Although there is less support, we find that Frederick has made a prima facie case for this service.

FAA has appeared in this proceeding because its proprietary interest in coordination of ground transportation to the airports could be affected by a grant to Frederick. We note that applicant agreed, should a certificate be granted, to enter into good faith negotiations with FAA for the requisite contract to conduct ground transportation from the airports and to meet such reasonable requirements as are imposed by that contract. Thus, FAA will protect its proprietary mission in its contract with Frederick by including reasonable

provisions pertaining to such matters as hours of service, equipment specifications and appearance, and curbside utilization at the airports.

After a thorough review of the record in this case and the briefs submitted thereon, and for the reasons stated above, the Commission finds that the application for a certificate of public convenience and necessity of Frederick Limousine, Inc., should be granted as it applies to Montgomery County and the District of Columbia and denied as it applies to Prince George's County.

THEREFORE, IT IS ORDERED:

1. That the application of Frederick Limousine, Inc., to the extent authority is sought to transport passengers and their baggage, in special operations, between Washington National Airport, Gravelly Point, Va., Dulles International Airport, Herndon, Va., and Union Station, Washington, D.C., on the one hand, and, on the other, points in the District of Columbia and Montgomery County, Md., in vehicles with a manufacturer's designed seating capacity for 15 passengers or less (including the driver), is hereby granted.

2. That said application, except to the extent granted herein, is hereby denied; provided, however, that applicant may, within 90 days from the date of service of this order, seek leave to reopen the record herein for the purpose of submitting then-available evidence concerning the need for, and ability of, applicant to render reasonable, continuous and adequate service to and from points in Prince George's County, Md.

3. That the Commission hereby reserves jurisdiction to consider such additional evidence, if any, and to reopen this proceeding to determine whether applicant then meets the requirements of Title II, Article XII, Section 4(b) of the Compact so that authority may be granted to provide service from and to points in Prince George's County, Md.

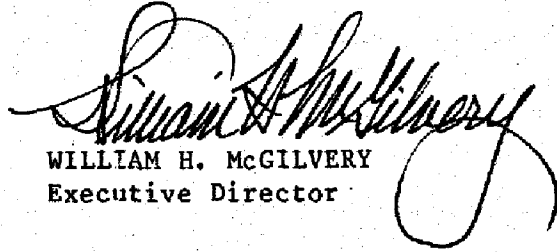
4. That applicant is hereby directed to file two copies of its WMATC Tariff No. 1 and two copies of an affidavit certifying compliance with Commission Regulation No. 68 governing identification of vehicles, for which purpose WMATC Certificate No. 106 is hereby assigned.

5. That Frederick Limousine, Inc., is hereby directed to pay to the Commission the sum of \$743, said sum being the balance due to cover the cost of its hearing, pursuant to the Compact, Title II, Article XII, Section 19.

6. That unless applicant complies with the requirements of the preceding paragraph within 15 days, or such additional time as the Commission may direct, the grant of authority herein shall be void and

the application shall stand denied effective upon the expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY
Executive Director